

DISCUSSION

In the Office Action dated August 19, 2008, claims 1-8 were rejected under 35 U.S.C. 101 as being directed to non-statutory subject matter. Claims 1, 5, 6, 7, 9, 10, and 11 were rejected under 35 U.S.C. 103(a) as being unpatentable over Flickinger in view of Del Sesto. Claims 12-16 and 19-23 were rejected as obvious in view of Flickinger, Del Sesto in view of Carles. Claims 2-4 were rejected as obvious in view of Flickinger, Del Sesto in view of Hall. Claim 8 is rejected as obvious in view of Flickinger, Del Sesto in view of Bergman. Claims 17 and 18 were rejected as obvious in view of Flickinger, Del Sesto in view of Chen.

Discussion of Claim Amendments

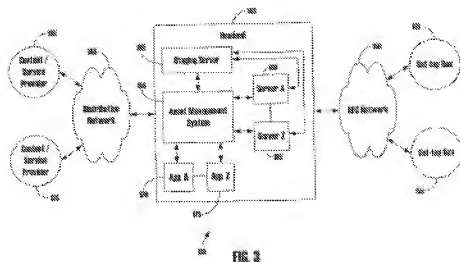
Applicant has amended the claims herein as summarized below:

- Claim 1 has been amended to recite “A staging server comprising computer readable medium for storing an asset....” which is statutory subject matter. (See, par. 34 of the present specification for support of the staging server storing an asset.) Further, claim 1 is amended to recite that the application program identified is executing in the cable headend, and that the content data is stored in one of a plurality of content servers in the cable headend. Further, claim 1 recites that the application identified is an application program identifier.
- Claim 9 is amended to recite a “digital cable system comprising a cable headend” and that the staging server and the content server are both “located in the cable headend.” Similarly, the first application program and the second application program are “executing in the cable headend.” In addition, it is clarified that the application program identifies “the content server” that receive content from the staging server as one of a plurality of content servers in the cable headend. In addition, claim 9 is amended to recite that the “application identifier” is an “application program identifier.”
- Claim 10 is amended to recite that the asset management system is located in “located in the cable headend.”
- Claim 19 is amended to also recite that the “application identifier” is an “application

program identifier.” Similarly, claim 19 is amended to recite that the application program is “executing in the cable system headend.” Claim 19 is amended to replace “the content server” with “one of a plurality of content servers located in the cable system headend” and to recite that the application program “instructs the one of a plurality of content servers to retrieve the content from the staging server.”

- Claim 23 is amended to properly reference “the one of a plurality of content servers.”

It is clear from the present specification that the staging server, content server, and the first and second application programs are all part of, and located in, the cable headend, as evidenced by FIG. 3 of the present application.



Thus, the limitations added are supported by the specification and do not represent new matter.

DISCUSSION OF AMENDMENTS IN VIEW OF REJECTIONS

Claim Rejections – 35 U.S.C. 101

Applicant has amended independent claim 1 to recite “a staging server comprising

computer readable medium” storing an asset, which falls within the scope of a “new and useful process, machine, manufacture, or composition of matter.” Thus, this claim amendment places the claim within the scope of statutory subject matter for patenting. Applicant submits it is proper to now withdraw the rejection based on 35 U.S.C. 101.

Claim Rejections – 35 U.S.C. 103

Claims 1, and dependent claims 5, 6, and 7

With respect to claim 1, it has been amended to recite that the application program identifier identifies an application program “executing in the cable headend.” Further, the content object is recited as being stored in “one of a plurality of content servers in the cable headend.”

This is clearly in distinction from Flickinger, for which paragraphs 56 and 74 are cited.

These paragraphs respectively begin with:

“The ad tag or vector can be detected by the STB...” (par. 56).

“This tag or ad vector can be used by the STB...” (par. 74).

In both case, “STB” means “Set Top Box”, and the set top box is clearly not in the cable head. The remaining portions of the cited paragraphs pertain to set top box processing. Thus, to the extent that an application program or the content is stored in the STB as disclosed in Flickinger, it is inapplicable for rendering obvious the recited claim limitations. Thus, any combination of Flickinger and Del Sesto cannot render obvious the claim.

With respect to claims 5, 6, and 7, because these depend on claim 1, and claim 1 is distinguishable from the cited art, these are distinguishable from the cited art as well.

Claims 9, and dependent claims 10 and 11

Claim 9 is distinguishable from Flickinger in that claim 9 now recites that the “staging server located in the cable headend that receives an asset having a structure from a content provider.” Flickinger (specifically Fig. 7, part 701 and par. 42) discloses a database (“ad server 701), however, there is no disclosure in Flickinger that this “receives an asset having a structure from a content provider.” The database in Flickinger is not shown as receiving an asset comprising content and meta-data. Rather, it is presumed that ad server 701 provides separate

metadata and ads, which are combined downstream in the set top box. Thus, neither is there any disclosure in the cited portions of Flickinger of receiving “an asset...wherein the asset comprises both the content and the data related to the content” as recited in the claim.

Further, claim 9 now recites that the content server is “located in the cable headend storing the content and in communication with a subscriber set-top box....” The Office Action admits that Flickinger does not disclose a content server, but instead relies on Del Sesto for this teaching. FIG. 1 in Del Sesto is alleged to disclose this, which is reproduced below:

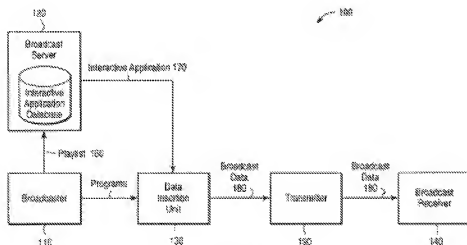


FIG. 1

Applicant presumes that the Examiner is alleging the Broadcast Server comprising the Interactive Application Database is the content server. However, there is no disclosure identified by the Examiner that the Broadcast Server stores “the content” from the asset. Although the Broadcast Server presumably stores data (which can be viewed as “content”), the figure does not by itself indicate that the data stored is “the content server from among a plurality of content servers [that receives] the content from the staging server” as recited later on in claim 9. Indeed, there is no disclosure of a staging server in FIG. 1 of Del Sesto, and to presume that the Broadcast Server somehow receives the content from the staging server in Flickinger is inappropriate because it requires creating interaction between different components of different

patents, where none exists.

Further, if the Broadcast Service is analogized to the content server, this cannot be reconciled with the reference to col. 9, lines 34-36 of Del Sesto as disclosing the limitation “wherein the second application identified a server that receives the content from the staging server.” (Office Action, page 6). The cited text pertains to information received by the “BR” (Broadcast receiver) which is *the set top box* (see, e.g., col. 7, lines 50-57). Thus, it is unclear what exactly is alleged to be the content server in Del Sesto.

In addition, claim 9 has been amended to recite that the “first application program” is located in the cable headend, as is the “second application program.” Thus, reliance on Del Sesto is inapplicable, since the cited text in Del Sesto alleged to disclose the first application program and the second application program refer to the “BR 140” receiving and processing the information. The “BR 140” as shown in FIG. 1 above, is not in the cable headend, but is in the set top box (see, Del Sesto, col. 7, lines 50-57).

Claim 10

Claim 10 has been amended to recite that the asset management system is also “located in the cable headend”, which is consistent with the first application program being located in the cable headend. This was alleged to be disclosed in FIG. 7, parts 719, 721, and 723 of Flickinger. However, the cited portions of FIG. 7 (shown below) are clearly not in the cable headend, but in the “STB” or set top box.

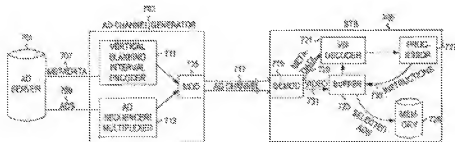


FIG. 7

Thus, Applicant submits that claim 10 is not disclosed or rendered obvious by Flickinger.

Claim 11

Claim 11 recites further limitations associated with the asset management system, which involves a “database associated the content and the data related to the content”. This is alleged to be disclosed by paragraph 58 of Flickinger, but a quick read of that paragraph indicates that it pertains to the STB (Set Top Box), not the cable headend.

Claims 12-16 and 19-23

Claim 12-16

These are dependent claims that ultimately depend on independent claim 9. For the reasons provided above, claim 9 is patentable from the combination of Flickinger and Del Sesto, and consequently, dependent claims 12-16 are patentable over the same combination of prior art in view of Carles.

Claim 19

Independent claim 19 is rejected on the same grounds as claim 9, 10, and 15. However, since claim 19 is amended (similar to independent claim 9) to recite that the staging server is “located in the cable system headend,” as is the application program and the one of the plurality of content servers. Thus, as shown previously, the portions of Frickinger and Del Sesto cited by the examiner as disclosing the application program pertain to set top box functionality and are distinguishable from the present claim limitations, which recite that the application program is executed in the cable headend. Hence, the cited references do not disclose the recited limitations.

Claims 20-23, 2-4, 8, 17 and 18

The remaining rejected claims all depend on the combination of Frickinger and Del Sesto in conjunction with a third reference to render obvious the recited limitations. However, as shown above, the independent claims which these depend from are not obvious in light of Frickinger and Del Sesto, so the dependent claims cannot be obvious in light of Frickinger, Del

Sesto and another third reference.

SUMMARY

The disclosure indicates that the staging server, content server, and application programs are all located in the cable headend. The independent claims are amended to recite the locations of these elements in the cable headend. Applicant submits that combinations of prior art references pertaining to set top box functions are inapplicable for various reasons. Specifically, the “broadcast receiver” of Del Sesto is the set top box, and any application therein is not located in the cable headend. The set top box is involved in processing information for a given channel for a single user, whereas the cable headend is processing information for a number of channels for a number of users. Further, the scale of operation (handling one user versus thousands of users) is not the same for a set top box as they are for the cable headend. Thus, reliance of prior art disclosing set top box functionality is distinguishable from cable headend functionality.

Applicant submits that with the present claim amendments, the independent claims are patentably distinct from the prior art, and that the specification supports the claim amendments. Applicant respectfully submits the claim rejections have been overcome, and that it is appropriate to issue a Notice of Allowability.

Appl. No.: 10/053,867
Amdt. dated December 16, 2008
Reply to Office Action of August 19, 2008

CONCLUSION

It is not believed that extensions of time or fees for net addition of claims are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 CFR § 1.136(a), and any fee required therefore (including fees for net addition of claims) is hereby authorized to be charged to Deposit Account No. 16-0605.

Respectfully submitted,

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